

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Luis Fernandez-Correa, Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, hereinafter referred to as ATF being duly sworn, depose and state as follows:

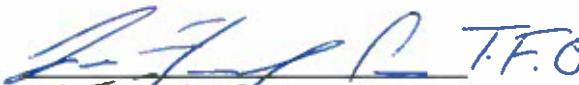
1. I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510 (7), that is, an officer of the United States empowered by law to conduct investigations and make arrests upon violations of the offenses enumerated in Title 18, United States Code, Section 2516. I am currently assigned to the ATF in San Juan, Puerto Rico, conducting investigations of federal firearms violations and other federal violations.
2. I am a Task Force Officer with the Bureau of Alcohol Tobacco, Firearms & Explosives (ATE) in Hato Rey, Puerto Rico, and have been so for the past nineteen (19) months. Prior to becoming a Task Force Officer, I worked over eleven (11) years as an Agent for the Puerto Rico Police Department. I am currently assigned to the ATF Violent Crime Group. As part of the Violent Crimes Group, I conduct investigations of violent gangs, firearms and narcotics violations. I have specialized training and/or experience in the area of high-level drug enforcement, street-level drug enforcement, narcotics smuggling and distribution, gangs, undercover operations, surveillance and debriefing informants and suspects.
3. All references herein to any experience refers to experience gained through training, conducting firearms and controlled substances investigations and participating in those investigations with other experienced investigators, as well as conversations with other law enforcement officers.
4. I am familiar with the information contained in this Affidavit, either through personal investigation or through discussions with other law enforcement officers who obtained information through investigation and surveillance, which they in turn reported to me.
5. On January 20, 2021, Officers from the San Juan Municipal Police (SJMP) were conducting a preventive patrol at Housing Cooperative Villa Kennedy, San Juan, P.R. The Officers were traveling in two (2) patrol vehicles from the SJMP. The Officers dismounted their vehicles to approach the drug point.

6. While walking around Villa Kennedy, the Officers observed a black Mitsubishi Lancer with the windows rolled down and three (3) male subjects inside. The subjects were not wearing their seat belts. One of the Officers ordered the driver of the vehicle, later identified as Nelson GRAU-CRUZ, to stop the vehicle.
7. GRAU-CRUZ stopped the vehicle and the Officer approached him to ask for the driver license and registration. At the same time, another Officer approached the vehicle from the right side and observed GRAU-CRUZ placing something under the front passenger seat in the back. The Officer looked inside the vehicle with a flashlight and observed a black in color fanny pack and a black in color pistol magazine protruding from it.
8. The Officer notified the other Officers that there was a firearm inside the vehicle and immediately GRAU-CRUZ grabbed the fanny pack while saying this is mine and turned it in to the Agent by his door. The occupants of the vehicle were asked if any of them possess a firearms permit and all answered no. At that time, GRAU-CRUZ and the other occupants were placed under arrest and were taken to the police station for processing.
9. The Officers seized inside the fanny pack, one (1) Glock pistol, model 17, 9MM caliber, serial number BBDL411 with one (1) round in the chamber. Also, inside the fanny pack, three (3) Glock pistol magazines; two (2) thirty (30) rounds capacity, 9MM caliber magazines and one (1) fifteen (15) rounds capacity magazine. The firearm had an adapter or modification that allows the firearm to automatically shoot, without manual reloading, more than one shot by a single function of the trigger, thereby classifying it as a machinegun. The modification to the firearm is located behind the slide and looked like a selector switch.
10. On January 21, 2021, ATF Agents read the Miranda Warnings to GRAU-CRUZ. GRAU-CRUZ acknowledged that he understood his rights and waived same. GRAU-CRUZ stated that the firearm seized by the Agents was his and that it belonged to his deceased brother, who died in 2010. GRAU-CRUZ also stated that the firearm has an adapter to convert the firearm into a fully automatic machinegun. GRAU-CRUZ stated that the other two (2) occupants did not know anything about the firearm nor the ammunition that he had in the fanny pack. GRAU-CRUZ also stated that he had the firearm for his protection, because after his brother died, he started to receive death threats.

11. Furthermore, GRAU-CRUZ stated that he is the owner of the drug point of Villa Kennedy and that he had four (4) firearms, approximately one (1) pound of marijuana for his consumption and drug paraphernalia in an apartment that he has access to. According to GRAU-CRUZ, the firearms belonged to his deceased brother. GRAU-CRUZ provided the ATF Agents with a consent to search the apartment located at Housing Cooperative Villa Kennedy, Building # 3, Apt 41, San Juan, P.R. GRAU-CRUZ also provided the key for the apartment to the ATF Agents.
12. ATF Agents and San Juan Municipal Police Officers searched the apartment. Once the apartment was open and cleared for security, the Municipal Officers brought two K-9 units to help with the search the apartment. One of the K-9 had been trained in the recovery of controlled substances and the other one in the recovery of firearms. Both K-9's marked in different parts of the apartment to include one (1) small office fridge in the living room and the first room directly in front of the entrance door.
13. The Agents started the search and found inside the office fridge in the living room: a total of 612 grams of marijuana. Inside the first room the Agents found:
  - a. one (1) AK-47 type pistol, 7.62 caliber, serial number unknown, was not loaded;
  - b. one (1) AK-47 type rifle, 7.62 caliber, serial number obliterated, was not loaded;
  - c. one (1) Kel-Tec pistol, model unknown, 5.56 caliber, serial number P0045, was not loaded;
  - d. one (1) Walther pistol, model Bodyguard, .380 caliber, serial number KAN921, was loaded with one (1) round in the chamber; and
  - e. one (1) Smith & Wesson pistol, model unknown, 9MM caliber, serial number unknown.
14. In the same room law enforcement officers also was found One Hundred and Fifty Three (153) rounds of .45 caliber ammunition, Fifty (50) rounds of .380 caliber ammunition, Four (4) rounds 5.7 caliber ammunition, Two Hundred and Fifty Six (256) rounds of .223 caliber ammunition, Five (5) rounds of .38 caliber ammunition, Eighteen (18) rounds of .357 caliber ammunition, Five Hundred and Sixty Four (564) rounds of 7.62 caliber ammunition, Three Hundred and Thirty (330) rounds of 9MM caliber ammunition, Thirteen (13) rounds of .357 SIG caliber ammunition, Eight Hundred and Eighteen (818)

rounds of .40 caliber ammunition. Also, one (1) 9MM caliber double drum magazine, one (1) single 9MM caliber drum magazine, one (1) single .40 caliber ammunition drum magazine, one (1) AK-47 extended magazine, two (2) 7.62 caliber magazines, three (3) .223 caliber magazines, one (1) 5.56 caliber magazine, one (1) small .223 caliber magazine, two (2) FN 5.7 magazine, two (2) extended .45 caliber magazine, two (2) extended .45 caliber magazines, two (2) extended 9MM caliber magazines, four (4) black .45 caliber magazines, one (1) .45 caliber magazine, two (2) black .40 caliber magazine, one (1) .357 caliber magazine, one (1) .357 caliber magazine, one (1) 9MM caliber magazine, one (1) 9MM caliber magazine, one (1) .380 caliber magazine, one (1) 9MM caliber magazine, one bag containing firearms parts.

15. Additionally recovered from the search was: Two Hundred and Fifty Five (255) vials containing a white powdery substance, One Hundred and Ninety Five (195) small baggies containing a white powdery substance, Twenty Two (22) white rounded pills, Fifty Seven (57) blue containers containing a green leafy substance, One Hundred and Seventeen (117) small baggies containing an green leafy substance, ledgers, two (2) radio scanners, four (4) cellphones, one (1) Samsung tablet and drug paraphernalia.
16. Based on the above facts, I have probable cause to believe that Nelson GRAU-CRUZ has violated federal firearm laws. Specifically, he has violated Title 18, United States Code, Section 922 (o) – possession of a machinegun.



Luis Fernandez-Correa  
Task Force Officer  
Bureau of Alcohol, Tobacco,  
Firearms and Explosives

Subscribed and Sworn pursuant to FRCP 4.1 at 3:30 PM by telephone, this 22 day of January 2021, in San Juan, Puerto Rico.



Honorable Camille L. Vélez-Rivé  
United States Magistrate Judge  
District of Puerto Rico

**Attachment A**

